



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2153

DATE SCANNED 3/9/11

SCANNER NO. 2

SCAN OPERATOR ESS

11092652144



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 16, 2010

MEMORANDUM

TO: THE COMMISSION

THROUGH: ALEC PALMER
ACTING STAFF DIRECTOR

FROM: PATRICIA CARMONA *PC for PC*
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *DC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *RM*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2010 12 DAY
PRE-PRIMARY REPORT (GEORGIA)

Attached is the name of a political committee and its treasurer who failed to timely file the 2010 12 Day Pre-Primary Report in accordance with 2 U.S.C. § 434(a). The committee represents a candidate who participated in the Georgia Primary Election. The 12 Day Pre-Primary Report was due on July 8, 2010.

The committee listed in the attached RTB Circulation Report failed to file the report. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, the committee should be assessed the civil money penalty highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committee and its treasurer listed on the RTB Circulation Report violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the RTB Circulation Report.
2. Send the appropriate letter.

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Federal Election Commission
Reason to Believe Circulation Report
2010 PRE-PRIMARY Election Sensitive 07/08/2010 AUTH (GA)

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2153	C00418293	COMMITTEE TO RE-ELECT HENRY HANK JOHNSON	JOHNSON, HENRY C. 'HANK' JR	MALCOLM A. CUNNINGHAM	\$817,882	1	7/15/2010	7	\$290,527	\$4,562

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2010)
12 Day Pre-Primary Report (Georgia) for)
the AF Program:)
COMMITTEE TO RE-ELECT HENRY) AF# 2153
HANK JOHNSON, and MALCOLM A.)
CUNNINGHAM as treasurer;)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on August 17, 2010 the Commission took the following actions on the Reason To Believe Recommendation - 2010 12 Day Pre-Primary Report (Georgia) for the AF Program as recommended in the Reports Analysis Division's Memorandum dated August 16, 2010, on the following committee:

AF#2153 Decided by a vote of 6-0 to: (1) find reason to believe that COMMITTEE TO RE-ELECT HENRY HANK JOHNSON, and MALCOLM A. CUNNINGHAM as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

August 17, 2010
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 19, 2010

Malcolm A. Cunningham, in official capacity as Treasurer
Committee to Re-Elect Henry Hank Johnson
6440 Old Hillandale Drive, Suite 262
Lithonia, GA 30058

C00418293
AF#: 2153

Dear Mr. Cunningham:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in any calendar year during which there is a regularly scheduled election for which the candidate is seeking election, or nomination for election. This report, covering the period through June 30, 2010, shall be filed no later than July 8, 2010. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on July 15, 2010, seven (7) days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On August 17, 2010, the FEC found that there is reason to believe ("RTB") that Committee to Re-Elect Henry Hank Johnson and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before July 8, 2010. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$4,562. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$4,562 is due within forty (40) days of the finding, or by September 26, 2010, and is based on these factors:

Election Sensitivity of Report: Election Sensitive
Level of Activity: \$290,527
Number of Days Late: 7
Number of Previous Civil Money Penalties Assessed: 1

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

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NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or September 26, 2010. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Committee to Re-Elect Henry Hank Johnson and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.51(a)(2).

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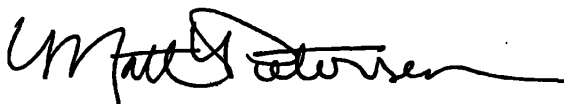
3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Ian Wandner in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chairman

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$4,562 for the 2010 Pre-Primary Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by September 26, 2010. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Committee to Re-Elect Henry Hank Johnson

FEC ID#: C00418293

AF#: 2153

PAYMENT DUE DATE: September 26, 2010

PAYMENT AMOUNT DUE: \$4,562

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 5, 2010

MEMORANDUM

TO: THE COMMISSION

THROUGH: ALEC PALMER
ACTING STAFF DIRECTOR

FROM: PATRICIA CARMONA *PC*
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *DC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: *NRG* *in for SP* *in*
NATALIYA IOFFE/SARI PICKERALL/IAN WANDNER
REPORTS ANALYSIS DIVISION
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION
RECOMMENDATION FOR THE 2010 12 DAY PRE-PRIMARY REPORT
(GEORGIA)

Attached is the name of a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to timely file the 2010 12 Day Pre-Primary Report (Georgia). The committee has paid the civil money penalty requested at RTB.

In accordance with 11 CFR § 111.34, the Commission shall send a final determination notice to the respondents that have paid the civil money penalty.

RAD Recommendation

- (1) Make final determination that the political committee and its treasurer on the attached report violated 2 U.S.C. § 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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10/5/2010 3:44 PM

Federal Election Commission
FD Circulation Report Fine Paid
2010 PRE-PRIMARY Election Sensitive 07/08/2010 AUTH (GA)

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
2153	COMMITTEE TO RE-ELECT HENRY HANK JOHNSON	JOHNSON, HENRY C. HANK JR.	C00418293	MALCOLM A. CUNNINGHAM	07/15/2010	7	\$294,217	1	08/17/2010	\$4,562	\$4,562	09/21/2010	\$4,562

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Administrative Fine Program - Final) AF 2153
Determination Recommendation for the)
2010 12 Day Pre-Primary Report (GA))

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on October 07, 2010, the Commission decided by a vote of 6-0 to take the following actions in AF 2153:

1. Make final determination that Committee to Re-Elect Henry Hank Johnson and Malcolm A. Cunningham, Treasurer, violated 2 U.S.C. § 434(a) and assess the final civil money penalty in the amount of \$4,562.00.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision

Attest:

October 8, 2010
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 13, 2010

Malcolm A. Cunningham, in official capacity as Treasurer
Committee to Re-Elect Henry Hank Johnson
6440 Old Hillandale Drive, Suite 262
Lithonia, GA 30058

C00418293
AF#: 2153

Dear Mr. Cunningham:

On August 17, 2010, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Committee to Re-Elect Henry Hank Johnson and its treasurer violated 2 U.S.C. § 434(a) for filing late the 2010 12 Day Pre-Primary Report. By letter dated August 19, 2010, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$4,562 in accordance with the schedule of penalties at 11 C.F.R. § 111.43.

On September 21, 2010, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on October 7, 2010 that you, in your official capacity as treasurer, and Committee to Re-Elect Henry Hank Johnson violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$4,562 in accordance with 11 C.F.R. § 111.43, and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Sari Pickeral on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Matthew S. Petersen", is written over a horizontal line.

Matthew S. Petersen
Chairman

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FOR: Committee to Re-Elect Henry Hank Johnson

FEC ID#: C00418293

AF#: 2153

PAYMENT DUE DATE: September 26, 2010

PAYMENT AMOUNT DUE: \$4,562

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 0000456200 BA# 1 09-20-10 20 3



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us bancorp.
The Bancorp. Group

FIDELITY BANK FIDELITY BANK FIDELITY BANK		OFFICIAL CHECK		1000079949	
DATE 9/17/2010		AMOUNT \$4,562.00		CHECK # 1000079949	
PAY TO THE ORDER OF		FEDERAL ELECTION COMMISSION		FOR: FEC ID# C00418293 AF# 2153	
NAME OF PAYEE		FEDERAL ELECTION COMMISSION		BY: [Signature]	
ADDRESS		FEDERAL ELECTION COMMISSION		AUTHORIZED SIGNATURE	



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2153

DATE SCANNED

3/9/11

SCANNER NO.

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SCAN OPERATOR

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